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EXAMINER
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BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

NOTIFICATION DATE	DELIVERY MODE
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11/04/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 6 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Sengewald (4,779,996). Sengewald discloses a bundle of flattened foil bags (11) having a generally uniform thickness with each bag comprising a front portion having an upper edge (17), a rear portion (14), a sealed bottom, a plurality of first incisions (13, 13a) extending entirely through the foil bag with the first incisions having a closed shape and a plurality of second incisions in the front portion (17, Figure 2) and extending between the upper edge and the plurality of first incisions and the second incisions having an essentially straight shape. The bags of Sengewald are inherently capable to be supported on a pin support of a foil bag opening machine.

As to claim 4, Sengewald discloses the second incisions do not extend into the rear portion (Figure 2 shows the rear portion includes a bridge (16) disposed between the opening (13) and the slot (15) which is not the same as the front portion).

As to claim 6, Sengewald further discloses front side portions (side folds) having an upper edge and a plurality of third incisions extending between the upper edge of the front side portions and the plurality of first incisions.

Art Unit: 3728

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 6 and 21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Wilfong, Jr. (4,995,860) in view of Sengewald (4,779,996) or Conrad et al. (5,062,716; hereinafter Conrad'716). Wilfong discloses in the embodiment of Figures 11-12, a bundle of flattened foil bags (10, 11) with each bag comprising a front portion (13) having an upper edge, a rear portion (14), a sealed bottom (17), a plurality of first incisions (20) extending entirely through the foil bag and a plurality of second incisions (21) in the front portion and extending between the upper edge and the plurality of first incisions and the second incisions having an essentially straight shape. The bag of Wilfong is capable to be supported on a pin support of a foil bag opening machine. Wilfong also discloses the other claimed limitations except for the first incisions comprise a closed shape.

Wilfong further discloses a bag in the embodiment of Figure 19 comprises a plurality of first incisions having a closed shape. Sengewald teaches a bundle of flattened foil bags (11) having a generally uniform thickness with each bag comprising a front portion having an upper edge (17), a rear portion (14), a sealed bottom, a plurality of first incisions (13, 13a) extending entirely through the foil bag with the first incisions having a closed shape and a plurality of second incisions in the front portion (17, Figure 2) and extending between the upper edge and the plurality of first incisions and the second incisions having an essentially straight shape.

Art Unit: 3728

Conrad'716 shows a bag (3) in the embodiment of Figure 5 comprising a plurality of first incisions (10) and the first incisions having a closed shape.

Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was made in view of the embodiment of Figure 19 of Wilfong or Sengewald or Conrad'716 to modify the plurality of first incisions in the embodiment of Figures 11-12 of Wilfong so the plurality of first incisions comprise a closed shape to facilitate through a pin support and the selection of the specific shape for the first incisions such as the shape of Wilfong or Sengewald or Conrad'716 would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well.

As to claims 4, 6 and 21, Wilfong further discloses the second incisions do not extend into the rear portion (Figure 12 and column 8, lines 8-15) and front side portions having a plurality of third incisions extending between the upper edge of the front side portions and the plurality of first incisions.

### ***Response to Arguments***

Applicant's arguments with respect to all pending claims have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Wilfong in the remarks are noted. They are not persuasive because it is old and conventional practice of providing the first incisions having a closed shape as taught by Wilfong in the embodiment of Figure 19 or Sengewald or Conrad'716.

Art Unit: 3728

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3728

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lkb  
November 1, 2008

/Luan K. Bui/  
Primary Examiner  
Art Unit 3728